

Message Text

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DOD/ISA:EMELANSON
OES/APT:IPIKUS
S/P:WGATHRIGHT
EUR/SOV:GMATTHEWS (PARA 6)
L/UNA:DSTEWART
OSTP:AMORRISSEY (PARA 6)
ACDA/D:MEIMER (PARA 7)
NSC:BHUBERMAN (PARA 7)

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C O N F I D E N T I A L STATE 064357

E.O. 11652: GDS

TAGS: TSPA, UN

SUBJECT: GUIDANCE FOR U.S. DELEGATION TO THE UN OUTER
SPACE LEGAL SUBCOMMITTEE

1. FOLLOWING IS GUIDANCE FOR U.S. DEL TO UN OUTER SPACE
LEGAL SUBCOMMITTEE (LSC) BASED ON PROVISIONAL AGENDA
SUBMITTED IN UN DOCUMENT A/AC.105/C.2/L.112, JAN. 18, 1978.
GUIDANCE ON DIRECT BROADCAST SATELLITES (DBS) ISSUE WILL
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BE SENT SEPTEL. DEL SHOULD REPORT REGULARLY ON LSC
PROCEEDINGS AND VIEWS OF OTHER DELS.

2. IN OPENING STATEMENT U.S. REPRESENTATIVE SHOULD
OUTLINE U.S. ACCOMPLISHMENTS DURING THE PAST YEAR IN
SPACE, HIGHLIGHTING THOSE ASPECTS OF PROGRAM FEATURING
U.S. COOPERATION WITH OTHER COUNTRIES INCLUDING THE
FURNISHING OF LAUNCH SERVICES FOR A VARIETY OF USES.
THE CONTINUING SUCCESS OF THE LANDSAT PROGRAM SHOULD BE
MENTIONED AS WELL AS PLANS FOR FUTURE LANDSAT SERVICES

AND THE GLOBAL VALUE OF REMOTE SENSING. U.S. REPRESENTATIVE SHOULD NOTE NEW MEMBERSHIP AS RESULT OF THE EXPANSION OF OUTER SPACE COMMITTEE AND REMARK ON THE COOPERATIVE AND HELPFUL CONTRIBUTION MADE BY NEW MEMBERS IN RECENT STSC MEETING, WITH EXPECTATION THAT THIS COOPERATION WILL

EXTEND TO THE CONSENSUS-BASED OPERATION OF THE LEGAL SUBCOMMITTEE. ANY REFERENCES TO COSMOS 954 IN OPENING STATEMENT SHOULD FOLLOW CLOSELY CLEARED, APPROVED LANGUAGE ON COSMOS MADE BY U.S. DEL IN ITS OPENING STATEMENT AT STSC MEETING IN NEW YORK.

3. MOON TREATY: DEL MAY ACQUIESCE IN DISCUSSING MOON TREATY ISSUE AT LENGTH IF OTHER DELS WISH TO DO SO. DEL SHOULD NOT, HOWEVER, GET OUT IN FRONT IN ENCOURAGING EXTENDED DEBATE. SINCE THIS ISSUE HAS NOT CHANGED IN SEVERAL YEARS, DEL SHOULD FOLLOW SUBSTANTIVE GUIDANCE RE MOON TREATY PROVIDED FOR 1977 LSC MEETING.

4. REMOTE SENSING:

A. COMMON ELEMENTS. LAST YEAR'S WORKING GROUP III ON REMOTE SENSING IDENTIFIED SIX NEW PRINCIPLES OR COMMON ELEMENTS, RELATING RESPECTIVELY TO THE ROLE OF THE CONFIDENTIAL

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UN, IMPENDING NATURAL DISASTERS, RESPECT FOR THE LEGITIMATE RIGHTS AND INTERESTS OF STATES, FURNISHING TECHNICAL INFORMATION TO THE UN AND INTERESTED STATES, INTERNATIONAL RESPONSIBILITY FOR REMOTE SENSING, AND THE RIGHT OF A SENSED STATE TO HAVE ACCESS TO DATA PERTAINING TO ITS OWN TERRITORY. ALONG WITH THE FIVE DRAFT PRINCIPLES FORMULATED AT THE PREVIOUS YEAR'S SESSION, EACH OF THE NEW TEXTS CONTAINS DISPUTED LANGUAGE. U.S. DEL SHOULD NOT AGREE TO INCLUSION OF MANDATORY LANGUAGE IN THESE PRINCIPLES. A FINAL COMPREHENSIVE READING OF ALL PRINCIPLES SHOULD ALSO BE UNDERTAKEN ONCE OUTSTANDING MATTERS ARE RESOLVED.

THERE IS DISPUTE OVER WHETHER THE SUBJECT MATTER OF THESE PRINCIPLES IS (1) REMOTE SENSING OF THE NATURAL RESOURCES OF THE EARTH OR (2) REMOTE SENSING OF THE NATURAL RESOURCES OF THE EARTH AND ITS ENVIRONMENT. IN VIEW OF DISCUSSIONS IN STSC ON THE POSSIBILITY OF APPLYING REMOTE SENSING TO ENVIRONMENT MONITORING, DEL SHOULD ARGUE IN FAVOR OF THE SECOND INTERPRETATION. WITH RESPECT TO PRINCIPLE VI, THE ROLE OF THE UN IN REMOTE SENSING, U.S. DEL SHOULD NOT AGREE TO GIVING THE UN ANY OPERATIONAL ROLE.

AS TO THE ASSERTION BY SOME STATES THAT NATIONAL SOVEREIGNTY EXTENDS TO INFORMATION CONCERNING A COUNTRY'S NATURAL RESOURCES, U.S. DEL SHOULD MAINTAIN

THE U.S. POSITION THAT NO SOVEREIGNTY CAN BE CLAIMED

OVER SUCH INFORMATION, WHILE RECOGNIZING THAT EACH STATE MAY EXERCISE SOVEREIGNTY OVER ITS NATURAL RESOURCES SUBJECT TO ITS OBLIGATIONS UNDER INTERNATIONAL LAW.

B. SPATIAL RESOLUTION. THIS YEAR MORE ATTENTION CAN BE EXPECTED ON THE QUESTION OF RESTRICTING DISSEMINATION OF REMOTE SENSING DATA AT OR BELOW A CERTAIN SPATIAL CONFIDENTIAL

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RESOLUTION. THE COSPAR REPORT ON CHARACTERISTICS AND CAPABILITIES OF SENSORS (A/AC.105/204) WAS COMMISSIONED BY THE SECRETARIAT, AT THE RECOMMENDATION OF THE STSC AND OSC, TO ASSESS THE UTILITY OF USING SPATIAL RESOLUTION OR OTHER TECHNICAL CRITERIA FOR PURPOSES OF ESTABLISHING CONTROLS ON DISSEMINATION OF REMOTELY SENSED DATA.

IN EXPLAINING WHY NO ONE DEFINITION OF SPATIAL RESOLUTION APPLIES TO ALL CIRCUMSTANCES, THE REPORT WEAKENS THE SUPPOSITION THAT REMOTELY SENSED DATA COULD BE DISSEMINATED OR WITHHELD ACCORDING TO WHETHER THE RESOLUTION WAS APPROPRIATE TO THE APPLICATIONS FOR WHICH THE DATA WERE INTENDED. U.S. DEL SHOULD POINT OUT THE INCONCLUSIVE NATURE OF THE STUDY RESULTS. STSC HAS RECOMMENDED FURTHER STUDY ON THIS SUBJECT. THE U.S. WILL AWAIT RESULTS OF THAT STUDY IN 1979. THE U.S. REMAINS GENERALLY OPPOSED TO RESTRICTIONS ON THE DISSEMINATION OF REMOTELY SENSED DATA FOR CIVILIAN USE.

5. DEFINITION/DELIMITATION OF OUTER SPACE: SHOULD SUBSTANTIAL PRESSURE DEVELOP IN THE LSC FOR CREATING A DEFINITION OF OUTER SPACE, DEL SHOULD STEER THE DISCUSSION TOWARD ELUCIDATION OF PURPOSES TO BE SERVED BY SUCH A DEFINITION IN ORDER TO FACILITATE THE WORK OF THE STSC. THE U.S. DEL SHOULD CONTINUE TO EXPRESS SKEPTICISM WITH REGARD TO THE NEED FOR DEFINITION OR DELIMITATION URGING THAT THE OSC AND ITS SUBCOMMITTEES SHOULD FOCUS ON SOLUTIONS TO ACTUAL PROBLEMS.

THE U.S. POSITION OF THE CLAIMS OF EQUATORIAL COUNTRIES TO SOVEREIGNTY OVER GSO IS OUTLINED IN STATE 282409 OF NOVEMBER 25, 1977. U.S. DEL MAY DRAW ON FOLLOWING CONFIDENTIAL

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POINTS IN DISCUSSING GEOSTATIONARY ORBIT:

A. GSO IS BUT ONE OF AN INFINITE NUMBER OF ORBITS INTO WHICH SATELLITES CAN BE PLACED AND ITS PARTICULAR

CHARACTERISTICS ARE FUNCTIONS OF BOTH THE TOTAL GRAVITATIONAL FIELD OF THE EARTH AND THE ROTATION OF THE WHOLE EARTH.

B. THERE IS NO RELATIONSHIP BETWEEN THE GSO AND ANY UNDERLYING COUNTRY. ENTRY INTO GSO CAN BE ACHIEVED THROUGH LAUNCH FROM ANY COUNTRY ON EARTH; THE ENERGY REQUIREMENTS FOR INSERTION INTO GSO VARY WITH PAYLOAD MASS AND LATITUDE OF LAUNCH AMONG OTHER FACTORS. THE ORBIT IS COMPLETELY UNAFFECTED BY NATIONAL BOUNDARIES ON THE EARTH.

C. BECAUSE OF PERTURBATIVE EFFECTS ARISING FROM THE ACTIONS OF THE SUN, MOON AND LARGE PLANETS, AS WELL AS FROM ASYMMETRIES IN THE EARTH'S MASS DISTRIBUTION, THE GSO IS NOT ONE IN WHICH A SATELLITE WILL REMAIN STEADY INDEFINITELY. IT IS ACHIEVABLE ONLY TO AN APPROXIMATION AND SATELLITES REQUIRE ADJUSTMENT MANEUVERS TO MAINTAIN A STEADY GSO.

D. GIVEN THE EARTH'S MASS AND ROTATION RATE, THE GSO IS ROUGHLY 22,300 MILES ABOVE THE EARTH'S SURFACE. IT IS THEREFORE FAR BEYOND THE ALTITUDES OF MOST SATELLITES CURRENTLY IN ORBIT OR PLANNED.

E. REGARDLESS OF THE ABSENCE OF ANY SPECIFIC AGREED-UPON DEFINITION OR DELIMITATION OF OUTER SPACE, THERE IS NO TECHNICAL OR LEGAL BASIS FOR CONSIDERING THE GSO NOT TO LIE IN OUTER SPACE. THEREFORE, ITS USE MUST BE GUIDED BY THE PROVISIONS OF THE 1967 OUTER SPACE TREATY.

F. THERE IS NO BASIS WITH THE 1967 TREATY FOR
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TREATING GSOS DIFFERENTLY FROM ANY OTHER ORBITS. FURTHERMORE, THE PROVISIONS OF ARTICLE II OF THE TREATY PRECLUDE ANY CLAIMS OF NATIONAL SOVEREIGNTY OVER GSOS OR PORTIONS THEREOF.

G. GSOS WERE UNDERSTOOD AND UTILIZED BEFORE AND DURING THE NEGOTIATION OF THE 1967 TREATY AND IT IS CLEAR THAT NO DISTINCTION WAS INTENDED TO BE DRAWN NOR ANY SPECIAL TERMS INTENDED TO APPLY TO GSOS.

A STUDY PREPARED BY THE SECRETARIAT'S OUTER SPACE AFFAIRS DIVISION GIVES THE SCIENTIFIC PARAMETERS OF THE GSO, DESCRIBES THE POSSIBLE USES OF GEOSTATIONARY SATELLITES, DISCUSSES THE LOW LIKELIHOOD OF COLLISIONS, AND LISTS THE SATELLITES NOW IN, OR PLANNED FOR GSO (A.AD.105/203). THE STUDY BRINGS OUT SEVERAL FACTORS USED IN SUPPORT OF THE U.S. POSITION: THE NUMBER OF COUNTRIES UTILIZING GSO, THE BENEFITS OF GSO TO THE

INTERNATIONAL COMMUNITY, THE NEED TO MANEUVER

SATELLITES TO KEEP THEM IN GSO.

U.S. DEL SHOULD NOTE THIS STUDY AND NOT OBJECT TO FURTHER DISCUSSION OF TECHNICAL ASPECTS. RESULTS OF THE STUDY SHOULD BE BROUGHT TO THE ATTENTION OF INTERESTED MEMBER STATES AND SPECIALIZED AGENCIES FOR THEIR CONSIDERATION IN CONNECTION WITH FUTURE PROGRAMS AND PLANNING. THE STUDY SHOULD NOT REPEAT NOT BE ADOPTED OR APPROVED BY THE LSC.

6. COSMOS 954 AND NUCLEAR POWER IN SPACE:

A. CLOSE CONSULTATION WITH CANADIANS, SWEDES, JAPANESE AND OTHER DELS SUPPORTIVE OF OUR POINT OF VIEW
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SHOULD BE MAINTAINED.

B. U.S. DEL MAY SUPPORT, BUT NOT INITIATE, EFFORTS TO INCLUDE SUBJECT ON FORMAL AGENDA AS SPECIAL ITEM. DEL SHOULD AVOID TAKING LEAD ESPECIALLY IN INITIAL STAGES OF DEBATE CONCERNING THIS ISSUE.

C. DEL SHOULD AVOID ANY IMPLICATION THAT U.S. POSITION HAS CHANGED FROM THAT STATED IN STSC. A POSITIVE CONSTRUCTIVE POSTURE FAVORING THE FORMATION OF A TECHNICAL WORKING GROUP UNDER THE STSC FOLLOWED BY AN EXAMINATION OF QUESTIONS RELATED TO THE ESTABLISHMENT OF A MULTILATERAL REGULATORY REGIME SHOULD BE TAKEN.

D. A MULTILATERAL REGULATORY REGIME MAY BE ANTICIPATED BASED ON:

-- THE ESTABLISHMENT OF SAFETY STANDARDS;

-- ESTABLISHMENT OF NOTIFICATION REQUIREMENTS;

-- PROVIDING ASSISTANCE IN SEARCH AND RECOVERY OF DEBRIS.

E. IN BILATERAL DISCUSSIONS WITH SOVDEL THE IMPORTANCE OF BEING CONSTRUCTIVE SHOULD BE STRESSED. LEGITIMACY OF THE CONCERNS EXPRESSED BY OTHER COUNTRIES SHOULD BE REQUESTED. DEL SHOULD REPORT ANY INDICATIONS OF LINKAGE WITH OTHER SOVIET CONCERNS AS WELL AS ANY INDICATIONS OF SOVIET THINKING REGARDING US-USSR BILATERALS ON SUBJECT.

F. ON QUESTION OF TEMPORARY MORATORIUM OR POSSIBLE BANS, DEL SHOULD REFRAIN FROM SUPPORT OR OPPOSITION BUT MAY POINT OUT NEED FOR STUDY OF TECHNICAL FACTORS AND

IMPLICATIONS. SUCH A STUDY WOULD REQUIRE PARTICIPATION
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BY BOTH MAJOR SPACE POWERS AND OTHER INTERESTED
COUNTRIES.

G. DEL SHOULD REFER TO U.S. PRESENTATION IN STSC
DESCRIBING TECHNICAL ASPECTS OF U.S. NUCLEAR POWER
SPACE PROGRAMS. DISTINCTION BETWEEN RTGS AND REACTORS
SHOULD BE DRAWN.

7. MILITARY SATELLITES:

A. ALL U.S. SATELLITES, CIVILIAN AND MILITARY, ARE
GOVERNED BY PHILOSOPHY WHICH CALLS FOR SPACE TO BE USED
FOR PEACEFUL PURPOSES ONLY. IN CONFORMING TO THIS
PHILOSOPHY, ALL U.S. MILITARY SATELLITES ARE NON-
AGGRESSIVE, PROVIDING SUPPORT IN AREAS SUCH AS
COMMUNICATION AND NAVIGATION.

B. IN CLARIFYING THE U.S. POSITION ON SATELLITES, THE
PRESIDENT AND THE SECRETARY HAVE BOTH EMPHASIZED THE
U.S. DESIRE TO NEGOTIATE A BAN ON ANTI-SATELLITE
SYSTEMS.

C. IN LIGHT OF THE ABOVE, WE BELIEVE THAT IT WOULD BE
UNHELPFUL FOR DELEGATIONS AT THE UN OUTER SPACE
COMMITTEE LSC, EITHER FORMALLY IN PREPARED STATEMENT
OR INFORMALLY IN CORRIDOR CONVERSATION, TO RAISE THE
POSSIBILITY OF BANNING "MILITARY USES OF SATELLITES."
TAKEN IN ITS BROADEST CONTEXT, SUCH A BAN WOULD
EXTEND TO U.S. PASSIVE MILITARY SATELLITES DESIGNED
SOLELY TO PROTECT THE SECURITY INTERESTS OF THE FREE
WORLD.

D. SHOULD CONDEMNATION OF "MILITARY USE" ARISE IN
CONTEXT OF PREPARATION OF LSC REPORT, DEL SHOULD TAKE
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APPROPRIATE STEPS TO ENSURE THAT LSC REPORT WILL NOT
REFLECT COMMITTEE CONSENSUS URGING THE OUTLAWING OF
SATELLITES FOR MILITARY PURPOSES OR REPORT CONSENSUS
COMMENTING ADVERSELY ON MILITARY USES OF SATELLITES.

8. POLITICAL STATEMENTS: IN THE EVENT THAT SOVIETS
OR OTHERS ATTEMPT TO INTERJECT POLITICAL ISSUES INTO
THE LSC DEBATE, DEL SHOULD FIRMLY EXPRESS OUR
OPPOSITION TO THE INTRODUCTION OF INAPPROPRIATE POLITICAL
ISSUES INTO THE LSC FORUM.

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